

Amend Subsection (b)(5) of Section 27.82
Title 14, California Code of Regulations
Re: California Scorpionfish Fishing Season (Southern Rockfish and Lingcod
Management Area)

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recreational fishing opportunity for scorpionfish by eliminating the three month fishing season and allowing scorpionfish fishing at the same times, and in the same water depths, that other rockfish fishing is authorized. This will likely result in increased harvest of scorpionfish, which the stock assessment suggests can occur without harm to the stock.

The Commission typically adopts regulations for California's recreational fishery, including those for California scorpionfish, to conform to those adopted by the Council. The proposed regulatory action is to be taken independent of any Council action. The Council sets management harvest guidelines or allowable catches on a biennial cycle and maintains a policy of not responding to stock assessment results unless immediate protection of the population is warranted. The scorpionfish stock assessment results show a healthy stock, and because of that, fits the Council's existing policy. Therefore the Council will not consider any harvest target changes until the next groundfish management cycle which begins in 2006. The effective date of any such Council harvest target changes would not be implemented until January 2007. The Department believes that the stock assessment results, and the manner in which this recreational fishery operates, allow increased 2006 ocean sport fishing opportunities in state waters. The additional projected take of California scorpionfish as a result of this proposed action is within accepted conservation guidelines and management practices for the stock.

The proposed amendments would modify existing seasonal restrictions and allow increased sport fishing opportunities for California scorpionfish in state waters in the Southern Rockfish and Lingcod Management Area. The increased fishing opportunity is supported by a recently-completed stock assessment that shows the stock to be healthy.

- (b) Authority and Reference Sections from Fish and Game Code for Regulation:

Authority: Sections 200, 202, 7071, and 8587.1, Fish and Game Code.

Reference: Sections 205, 7071, and 8586, Fish and Game Code.

- (c) Specific Technology or Equipment Required by Regulatory Change:

None.

- (d) Identification of Reports or Documents Supporting Regulation Change:

Department of Fish and Game. Nearshore Fishery Management Plan. Adopted October 25, 2002.

Federal Register. Vol. 69, No. 246. Thursday, December 23, 2004. Rules and Regulations. Pages 77012 – 77112.

Maunder, M.N., Barnes, J.T., Aseltine-Neilson, D., and MacCall, A.D. The Status of California Scorpionfish (*Scorpaena guttata*) off Southern California in 2004. May 25, 2005. 125 pp.

Pacific Fishery Management Council. 2004. Pacific Coast Groundfish Fishery Management Plan: Fishery Management Plan for the California, Oregon, and Washington Groundfish Fishery as Amended Through Amendment 17. 133 pp.

STAR Panel Report. Southwest Fisheries Regional Office, Long Beach, CA. May 9-13, 2005. 5 pp.

(e) Public Discussions of Proposed Regulations Prior to Notice publication:

No public meetings are being held prior to the notice publication. The 45-day comment period provides adequate time for review of the proposed amendment.

IV. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulation Change:

The Department considered a variety of management measures (alone and in combination) that would provide for additional take of California scorpionfish in 2006. The management measures included modification of bag limits, size limits, season, and alternative depth restrictions.

(b) No Change Alternative:

The no-change alternative does not use the current best scientific information on the status of the health of the California scorpionfish stock, and would not provide additional fish to the recreational fishery.

(c) Consideration of Alternatives:

In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purposes for which the regulation is proposed or would be as effective and less burdensome to the affected private persons than the proposed regulation.

V. Mitigation Measures Required by Regulatory Action:

The proposed regulatory action will have no negative impact on the environment; therefore, no mitigation measures are needed.

VI. Impact of Regulatory Action:

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

(a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Proposed modifications to the seasonal depth restrictions will likely provide a positive economic benefit by allowing increased fishing opportunities for recreational fishermen.

(b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California:

The proposed regulations will have no impact on the creation of jobs or businesses in the State, however, they will likely result in expanded business activity and opportunity for existing small businesses that cater to ocean anglers. Direct benefits of business activity and increased revenues would primarily accrue to the 138 commercial passenger fishing vessels (CPFV) in Southern California that reported taking California scorpionfish in 2004 in the Southern Rockfish and Lingcod Management Area. Indirect benefits will be gained by merchants that provide goods and services to recreational anglers using fishing modes other than CPFV.

(c) Cost Impacts on a Representative Private Person or Business:

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

None.

- (e) Nondiscretionary Costs/Savings to Local Agencies:

None.

- (f) Programs mandated on Local Agencies or School Districts:

None.

- (g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4:

None.

- (h) Effect on Housing Costs:

None.

Informative Digest/Policy Statement Overview

Existing regulations define sport fishing seasons and depths for California scorpionfish (*Scorpaena guttata*). The proposed regulatory change would expand sport fishing opportunities for California scorpionfish in state waters in the Southern Rockfish and Lingcod Management Area (Point Conception to the US/Mexico border). The increased fishing opportunity is supported by a recently completed stock assessment that shows the stock to be healthy.

Currently, take and possession of California scorpionfish in the Southern Rockfish and Lingcod Management Area is allowed October through December. The Department is proposing to allow California scorpionfish to be taken and possessed whenever recreational groundfish harvest is allowed in that area. All other management measures, such as bag limit and the minimum size will remain the same as current regulations.

The proposed change could lengthen the scorpionfish season by seven months. The result will be a scorpionfish season that is aligned with the season and depths currently established for other groundfish species in the Southern Rockfish and Lingcod Management Area.